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Town Hall

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Exempt Action Final Regulation Agency Background Document

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| Agency name | Department of Medical Assistance Services |
| Virginia Administrative Code (VAC) citation | 12 VAC 30-10- |
| Regulation title | State Plan Under Title XIX of the Social Security Act |
| Action title | Medicaid Prohibition on Payments to Institutions or Entities Located Outside of the United States |
| Document preparation date | |

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, §§ 32.1-324 and 325, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services. This action qualifies under Va. Code § 2.2-4006(A)(4)(c) because it is federally required under the Affordable Care Act (P. L. 111-148) and DMAS has no discretion about its implementation.

The section of the State Plan affected by this action is State Plan Under Title XIX of the Social Security Act: Medicaid Prohibition on Payments to Institutions or Entities Located Outside of the United States (12 VAC 30-10-435).

On December 30, 2010, the Centers for Medicare and Medicaid Services (CMS) published a State Medicaid Director letter (SMD # 10-026), informing states that, pursuant to Section 6505 of the Affordable Care Act (P. L. 111-148), CMS was requiring that States shall not provide any payments for items or services provided under the State plan or under a waiver to any financial institution or entity located outside of the United States (U.S.).

No Agency Discretion: CMS provided to the states a pre-printed State Plan page, which DMAS submitted to CMS for approval. This preprint page provides states no other options except to check a box indicating compliance with this prohibition on payments to any financial institution or entity located outside of the U.S. for any items or services provided under the State plan or under a waiver. The exact language from the State Plan page has is being promulgated in this action as a Virginia Medicaid regulation. The Department of Medical Assistance Services (DMAS) complies with this requirement. The purpose of this regulatory action is to affirm in the Virginia Administrative Code that the Department of Medical Assistance Services complies with the federal mandate that States not make Medicaid payments to individuals or entities located outside of the United States.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background document with the attached regulations State Plan Under Title XIX of the Social Security Act: Medicaid Prohibition on Payments to Institutions or Entities Located Outside of the United States (12 VAC 30-10-435), and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

Date

Gregg A. Pane, M.D., MPA, Director
Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents. It does not strengthen or erode the marital commitment, and will not decrease disposable family income.